

1  
2  
3  
4  
5 **BEFORE THE CRIMINAL JUSTICE TRAINING COMMISSION**  
6 **IN AND FOR THE STATE OF WASHINGTON**

7 In re the Certification of

NO. 17-658

8 **DANIEL R. TINDALL**

STATEMENT OF CHARGES

9 \_\_\_\_\_ Respondent.

10 On or about August 14, 2015, DANIEL R. TINDALL, a certified peace officer with  
11 the Washington State Patrol, was discharged for disqualifying misconduct as defined  
12 by RCW 43.101.010(8)(b) and (9). The disqualifying misconduct included conduct  
13 constituting a crime involving dishonesty or false statement within the meaning of  
14 Evidence Rule 609(a), to wit: Making a False or Misleading Statement to a Public  
15 Servant. RCW 9A.76.175. The disqualifying misconduct is as follows:

16 **Count I**

17 On or about April 16, 2015, during a criminal investigatory interview,  
18 DANIEL R. TINDALL made false and/or misleading statements to Olympia Police  
19 Department Sergeant Sean Lindros when he denied recognizing his son in a video, and  
20 further denied recognizing the articles of clothing worn by his son in the video.

21 DATED this 13<sup>th</sup> day of February, 2018.

22 By:

23 

24 \_\_\_\_\_  
25 TISHA JONES, MANAGER  
26 Peace Officer Certification  
Criminal Justice Training Commission

1  
2  
3  
4  
5  
6  
7 **BEFORE THE CRIMINAL JUSTICE TRAINING COMMISSION**  
8 **IN AND FOR THE STATE OF WASHINGTON**

9 In re the Certification of

10 DANIEL R. TINDALL

11 Respondent.

No. 17-658

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER REVOKING  
PEACE OFFICER CERTIFICATION

12 An administrative hearing in this matter was held October 16-18, 2018, at the Washington  
13 State Criminal Justice Training Commission facility in Burien, WA, to determine whether  
14 Respondent Daniel R. Tindall's peace officer certification should be revoked. The hearing was open  
15 to the public. The hearing was held before the Washington State Criminal Justice Training  
16 Commission Hearing Panel (Hearing Panel). When requested, the Presiding Member received aid  
17 and legal counsel from Assistant Attorney General John Hillman. RCW 34.05.455(1)(b). The  
18 Hearing Panel consisted of Presiding Member Professor Tadd Belden of Centralia College, Chief  
19 Mike Warren of the Ephrata Police Department, Sheriff William Reichardt of the Skagit County  
20 Sheriff's Office, Sergeant Sean Madison of the Sequim Police Department, and Sergeant Doug  
21 Kazensky of the Longview Police Department. The Petitioner was represented by  
22 Assistant Attorney General Susie Giles-Klein. The Respondent was represented by attorney Jim  
23 David.

## I. PROCEDURAL HISTORY

1.1 On November 2, 2001, the Commission issued peace officer certification to respondent Daniel Tindall on November 2, 2001. Mr. Tindall was employed as a commissioned peace officer for the Washington State Patrol (WSP) from September 4, 1990, to August 14, 2015.

1.2 On August 14, 2015, Mr. Tindall retired from WSP.

1.3 On or about August 17, 2015, WSP notified the Commission of Mr. Tindall's separation from employment.

1.4 On or about February 13, 2018, the Criminal Justice Training Commission (Commission) filed a Statement of Charges seeking to revoke Mr. Tindall's peace officer certification on the basis that he was discharged from the WSP for disqualifying misconduct as defined by RCW 43.101.010(8)(b) and (9). The Statement of Charges alleged that Mr. Tindall was discharged within the meaning of RCW 43.101.010(9) for engaging in conduct constituting a crime involving dishonesty or false statement within the meaning of Evidence Rule 609(a), to wit: Making a False or Misleading Statement to a Public Servant (RCW 9A.76.175).

1.5 Mr. Tindall timely requested a hearing.

## II. HEARING

2.1 A hearing was held on October 16, 2018, at the Commission facility in Burien, Washington, before the Hearing Panel.

2.2 The Petitioner presented the testimony of Lieutenant Sam Costello of the Olympia Police Department, Detective Sean Lindros of the Olympia Police Department, Captain Monica Alexander of WSP, Sergeant Bruce Maier of WSP, Retired Assistant Chief Ron Rupke of WSP, and Chief Paul Budrow of the Twisp Police Department.

2.3 The Respondent testified on his own behalf and also presented the testimony of his wife Melissa Tindall, Former Mayor of Winthrop Richard Northcott, Twisp Police Chief Paul Budrow, and retired WSP Trooper Elmer Shick.



1           2.4    The Petitioner offered the following exhibits, which were admitted by the  
2 Presiding Member at the Second Telephonic Prehearing Conference on October 4, 2018, and  
3 considered by the Hearing Panel in deciding this case:

- 4           1.    Statement of Charges, *In re the Certification of Daniel R. Tindall*, dated  
5               February 13, 2018 (3 pages);
- 6           2.    Request for Hearing, dated February 26, 2018 (1 page);
- 7           3.    Peace Officer Certification Application for Daniel R. Tindall dated  
8               November 2, 2001 (1 page);
- 9           4.    Notice of Peace Officer Separation for Daniel R. Tindall, dated August 17, 2015  
10               (1 page);
- 11          5.    Incident/Investigation Report for Olympia Police Department Case  
12               No. 201501952 dated March 27, 2015 (8 pages);
- 13          6.    Photographs of vehicle associated with Olympia Police Department Case  
14               No. 201501952, undated (6 pages);
- 15          7.    Video associated with Olympia Police Department Case No. 201501952 (1 disk);
- 16          8.    Supplemental Report of Detective Sean Lindros for Olympia Police Department  
17               Case No. 201501952, dated April 16, 2015 (6 pages);
- 18          9.    Facebook messages associated with Olympia Police Department Case  
19               No. 201501952 (7 pages);
- 20          10.   Audio copy of Olympia Police Department's interview of Daniel Tindall from  
21               April 16, 2015 (1 disk);
- 22          11.   Unredacted Portion of Supplemental Report of Jason Winner for Olympia Police  
23               Department Case No. 201501952, dated April 27, 2015 (2 pages);
- 24          14.   Investigative Report for Okanogan County Sheriff's Office Incident  
25               No. S15-02428, dated April 27, 2015 (6 pages);
- 26          15.   Pictures from search warrant associated with Olympia Police Department Case  
              No. 201501952, pages 3, 8, 12-13, 15, 17, 20-22, 27-32, 35-40, and 42-45  
              (50 pages total, including redacted pages);
16.   Washington State Patrol Investigator's Case Log for  
              Lieutenant Monica Alexander, dated April 15 through 16, 2015 (2 pages);
17.   Letter from Captain Scott A. McCoy to Daniel Tindall, dated April 17, 2015  
              (2 pages);
18.   Letter from Assistant Chief Ronald P. Rupke to Daniel Tindall, dated  
              April 17, 2015 (2 pages);

19. Washington State Patrol Investigative Authorization for Daniel Tindall, dated April 17, 2015 (1 page);
  20. Washington State Patrol Investigator's Case Log for Sergeant Kelly Gregerson, dated April 27, 2015 (1 page);
  21. Washington State Patrol Crime Laboratory Report for Olympia Police Department Case No. 201501952, dated May 29, 2015 (2 pages);
  22. Emails between Thurston County and the Washington State Patrol, various dates (5 pages);
  23. Washington State Patrol Investigator's Case Log for Sergeant Bruce Maier, dated June 19, 2015 through August 13, 2015 (2 pages);
  24. Washington State Patrol Investigator's Case Log for Sergeant James Prouty, dated July 1, 2015 (1 page);
  25. Washington State Patrol Office of Professional Standards Internal Incident Report, signed by Daniel Tindall on July 1, 2015 (1 page);
  26. Washington State Patrol Administrative Investigation Advance Notice Form, signed by Daniel Tindall on July 1, 2015 (1 page);
  27. Washington State Patrol Employee Bill of Rights, dated July 1, 2015 (6 pages);
  28. Emails from Washington State Patrol, various dates (5 pages);
  29. [ruling reserved, not offered at hearing]
  30. Washington State Patrol Office of Professional Standards cover page for Investigation No. 2015-0433, dated August 13, 2015 (1 page);
  31. Statement of Defendant on Plea of Guilty in *State of Washington v. Daniel Tindall* Thurston County Superior Court No. 15-1-00575-1, dated June 15, 2016 (7 pages);
  34. Article from Methow Valley News entitled "*Winthrop's new marshal has deep roots in the Methow Valley*," dated August 25, 2017 (4 pages).
  35. WSP Retirement Form (dated August 7, 2015) and associated e-mail (dated August 10, 2015) (4 pages).
- 2.5 The Respondent offered the following exhibits, which were admitted by the Presiding Member at the Second Telephonic Prehearing Conference on October 4, 2018: Exhibits 1, 2, 3, 4, 5 (redacted), 6, 8, and 9, and Supplemental Exhibits 1 and 2, which were considered by the Panel in deciding this case.



1           2.6     Respondent moved to dismiss the case at the close of the Commission's case on  
2 grounds that the Statement of Charges provided insufficient notice of the charge, specifically  
3 that it did not set forth all elements of the crime of making a false or misleading statement to a  
4 public servant. The Presiding Member denied the motion because the Statement of Charges  
5 adequately informed the Respondent that he was alleged to have been finally discharged for  
6 disqualifying misconduct; that the disqualifying misconduct was a crime of dishonesty within  
7 the meaning of ER 609(a); and that the crime of dishonesty alleged was making a false or  
8 misleading statement to a public servant. The Statement of Charges alleged the requirements  
9 listed in RCW 43.101.105(1)(d), which are what the Commission was required to prove by clear,  
10 cogent, and convincing evidence. The statutory citation for the crime of making a false or  
11 misleading statement was also included in the Statement of Charges and was sufficient to place  
12 the Respondent on notice of its elements.

13           2.7     Respondent moved to dismiss the Statement of Charges at the close of the  
14 Commission's case on grounds of insufficient evidence. The Presiding Member denied the  
15 motion, concluding that sufficient evidence was presented from which a reasonable trier of fact,  
16 viewing the evidence in a light most favorable to the Commission, could find by clear, cogent,  
17 and convincing evidence that the Respondent was finally discharged for disqualifying  
18 misconduct.

19           2.8.    Following the conclusion of evidence and the Commission's closing argument,  
20 Respondent moved to strike evidence and argument that he concealed evidence on grounds that  
21 there was no evidence presented to support such a finding. The Presiding Member denied the  
22 motion because the Commission could draw reasonable inferences from the evidence and there  
23 was evidence presented, when viewed in a light most favorable to the Commission, that was  
24 sufficient to allow the reasonable inference that the Respondent concealed evidence.

25           2.9     Following the conclusion of evidence and the Commission's closing argument,  
26 Respondent moved to strike argument and evidence, and/or dismiss the case, on grounds that the

1 Commission asked the Hearing Panel to draw a negative inference from the Respondent's  
2 exercise of his Fifth Amendment right to remain silent when he invoked that right during an  
3 interview with Olympia Police on April 16, 2015. The Presiding Member denied the motion  
4 because counsel for the Commission did not ask the Hearing Panel to draw such a negative  
5 inference. The Presiding Member directed the Panel not to draw any negative inference from the  
6 Respondent's invocation of his right to remain silent, even though the law likely allows such  
7 negative inference in civil administrative hearings, and the Panel did not draw any such negative  
8 inference during its deliberations.

9 2.10 Following the conclusion of evidence, the Respondent moved to strike Exhibit 9  
10 (Facebook messages) on grounds that the content of the exhibit was hearsay and was the only  
11 evidence that could prove that the Respondent's statements to Olympia Police on April 16, 2015  
12 were "false or misleading." The Presiding Member denied the motion to strike on grounds that  
13 the Panel could find Respondent's statements to Olympia Police "false or misleading" from other  
14 evidence that corroborated the content of Exhibit 9, including but not limited to:

- 15 a. Exhibit 31 (Statement of Defendant on Plea of Guilty), wherein the Respondent  
16 admitted to rendering criminal assistance to his son prior to April 16, 2015, which  
17 necessarily means the Respondent was aware of his son's crime prior to his interview  
18 with Olympia Police on April 16, 2015.
- 19 b. Exhibit 7 (video)
- 20 c. Exhibit 8 (confession of Wyatt Tindall)
- 21 d. Clothing found at the Winthrop home (Exhibit 15 and associated testimony)

22 2.11 The parties made their respective arguments, which the Hearing Panel  
23 considered.

24 Based on the evidence presented at the hearing, the Hearing Panel enters the following  
25 Findings of Fact and Conclusions of Law.  
26



### III. FINDINGS OF FACT

3.1 Mr. Tindall was hired as a State Trooper by the WSP on or about September 4, 1990, and was employed in that capacity until on or about August 14, 2015.

3.2 At all times relevant to the events described herein, Mr. Tindall was employed by the WSP as a State Trooper.

3.3 The Commission issued peace officer certification to Mr. Tindall on November 2, 2001, and he has been a certified peace officer ever since.

3.4 On or about March 27, 2015, Mr. Tindall's son, Wyatt Tindall, attempted to light a vehicle on fire. The vehicle belonged to Stephen Owens and Jill Van Hulle.

3.5 Their daughter, Lucy Owens, told the Olympia Police Department (Police Department) that she suspected her classmate Wyatt Tindall was the arsonist.

3.6 The Owens family provided the Police Department with home security video of the incident that showed a masked person in a dark coat attempting to set fire to their car.

3.7 On or about April 1, 2015, an officer from the Police Department interviewed Wyatt Tindall about the arson. That same day, the officer interviewed Wyatt's father, Mr. Tindall, and provided him with a copy of the video depicting Wyatt committing the arson.

3.8 At some point between April 1 and April 15, 2015, Mr. Tindall and his wife, Melissa Tindall, watched the video and subsequently discovered the jacket and ski mask worn by Wyatt in the video. They confronted their son about the arson, and Wyatt eventually admitted to the crime.

3.9 Sometime during the first week of April 2015, in a deliberate attempt to conceal evidence of his son's crime from law enforcement, Mr. Tindall transported the articles of clothing worn by his son in the video to the Tindalls' secondary residence in Winthrop, WA.

3.10 On or about April 14, 2015, Police Department Detective Sean Lindros interviewed Kailolu B. Okena, a friend and classmate of Wyatt Tindall. During the interview, Kailolu admitted that he was present during one of Wyatt's previous acts of vandalism at the



1 Owens residence. Kailolu told police he was not with Wyatt the night of the arson, but admitted  
2 that Wyatt told him about it afterwards.

3 3.11 During the interview, Kailolu voluntarily opened the Facebook Chat feature of  
4 his Facebook account, and Detective Lindros discovered the following message from Wyatt sent  
5 April 1, 2015:

6 Mom and Dad came and got me before play practice was over. Apparently the  
7 cops talked to them. My mom and dad found my mask and coat. They hid them  
8 but my dad wanted to go to the cops. My mom convinced him otherwise. If I'm  
9 convicted I could go to jail for 7 years minimum.

10 3.12 Other Facebook Messages from Wyatt to Kailolu stated that Mr. and Mrs. Tindall  
11 had seen the video, and recognized the person in the video to be their son Wyatt.

12 3.13 On or about April 15, 2015, Police Department Sergeant Sam Costello contacted  
13 WSP Lieutenant Monica Alexander about Mr. Tindall's possible involvement in deliberately  
14 concealing his son's crime. Sergeant Costello told Lieutenant Alexander that the Police  
15 Department provided Mr. Tindall with the video of his son committing the arson, but Mr. Tindall  
16 had not responded to their requests for contact. Lieutenant Alexander offered to assist Sergeant  
17 Costello with contacting Mr. Tindall.

18 3.14 On or about April 16, 2015, the Olympia Police Department served a search  
19 warrant at the Tindall residence in Olympia, WA.

20 3.15 That same day, approximately the same time as the warrant was being served,  
21 Detective Lindros and Sergeant Costello interviewed Mr. Tindall about his son's involvement in  
22 the arson. This interview took place at a WSP office in Tumwater, Washington. Mr. Tindall was  
23 in full uniform, armed, and on-duty during the interview. Detective Lindros provided Miranda  
24 warnings to Mr. Tindall prior to the start of the interview.

25 3.16 The Olympia Police officers who interviewed Mr. Tindall on April 16, 2015 were  
26 public servants.

1           3.17    During the interview, Mr. Tindall told Detective Lindros that he did not  
2 recognize his son in the video and that when he confronted his son about the crime he totally  
3 denied it. Mr. Tindall also denied recognizing any of the articles of clothing worn by his son in  
4 the video, including the jacket and the mask.

5           3.18    The statements in paragraph 3.15 that Mr. Tindall made to Detective Lindros were  
6 false and misleading.

7           3.19    Mr. Tindall knew that the statements described in paragraph 3.15 were false  
8 and/or misleading.

9           3.20    Olympia Police were likely to rely on Mr. Tindall's statements in investigating  
10 the arson and vandalism that had occurred at the Owens residence.

11          3.21    Detective Lindros also interviewed Wyatt Tindall on April 16, 2015. After  
12 Miranda warnings, Wyatt admitted to multiple acts of vandalism at the Owens' residence,  
13 including the arson. Wyatt told Detective Lindros his parents confronted him after they watched  
14 the video, and that he eventually admitted to the arson. Wyatt also said his parents decided to get  
15 rid of the clothes he was wearing in the video by transporting them to a secondary family  
16 residence in Winthrop, WA.

17          3.22    After the interviews, Sergeant Costello contacted Lieutenant Alexander at WSP  
18 and expressed his opinion that Mr. Tindall was not cooperating with the investigation and was  
19 not honest during his interview. Sergeant Costello told Lieutenant Alexander that Wyatt had  
20 already confessed to the arson and told police that his parents hid the clothing because they did  
21 not want him to be charged with a crime.

22          3.23    Detective Lindros and Sergeant Costello decided that they needed to search the  
23 Tindall's Winthrop residence as soon as possible to prevent potential destruction of the evidence.  
24 On April 16, 2015, Detective Lindros applied for and was granted a search warrant for the Tindall  
25 home in Winthrop, Washington. That same day, Detective Lindros, Sergeant Costello, and  
26 Detective Jason Winner served the warrant on the residence.



1           3.24   Inside the residence, the officers recovered a dark leather jacket that appeared to  
2 be the one worn by Wyatt in the video. They also recovered a pair of dark shoes with light soles  
3 in the "burn box" near a wood stove, which were similar in appearance to the shoes worn by  
4 Wyatt in the video. Finally, they recovered ashes and fibrous debris from a wood-burning stove  
5 that could possibly be the burnt remnants of the mask worn by Wyatt in the video. A crime lab  
6 report identified the fibrous debris as woven fabric made of natural plant fiber commonly used  
7 in the textile industry.

8           3.25   On or about April 17, 2015, WSP informed Mr. Tindall they had received  
9 information concerning his involvement in "administrative and criminal conduct," and that the  
10 matter would be referred to the Office of Professional Standards (OPS) for investigation. That  
11 same day, Mr. Tindall was placed on administrative leave pending the outcome of OPS'  
12 investigation. Mr. Tindall was personally served with these notices of OPS' investigation on or  
13 about April 27, 2015.

14           3.26   On or about June 19, 2015, Sergeant Bruce Maier was assigned to the OPS  
15 investigation. On or about June 29, 2015, OPS removed the criminal hold on its investigation  
16 into Mr. Tindall, and served him with several documents. One of these documents was entitled  
17 "OPS Internal Incident Report." On this report, under the section entitled "Summary of  
18 Allegation(s)," OPS alleged "on March 27, 2015<sup>1</sup>, Trooper Tindall was provided a video of his  
19 son slashing tires and attempting to set a vehicle on fire. It is further alleged after reviewing the  
20 video Trooper Tindall destroyed or hid evidence related to the incident." Under that allegation,  
21 Mr. Tindall handwrote "was not my son and I'm innocent!" Mr. Tindall signed his initials next  
22 to the handwritten statement.

23           3.27   Sergeant Maier asked serving Officer Sergeant Prouty to make a detailed account  
24 of his interaction with Mr. Tindall, as Sergeant Maier had concerns regarding the truthfulness of  
25 Mr. Tindall's handwritten statement.

26           <sup>1</sup> This date should have been April 1, 2015, as is noted in a handwritten correction on Ex. P-25.



1        3.28    On or about July 2, 2015, the Olympia Police Department supplied OPS with its  
2 criminal reports concerning Mr. Tindall. Sergeant Maier reviewed the reports, and proceeded to  
3 schedule an interview with Mr. Tindall for July 30, 2015. Sergeant Maier intended to use the  
4 interview to compel Mr. Tindall to answer questions related to his involvement in the criminal  
5 case, and would base the questions off the narrative in the criminal reports. Sergeant Maier was  
6 specifically concerned about Mr. Tindall's honesty during his interview with the Olympia Police  
7 Department, and the potentially false statement written on his Internal Incident Report.

8        3.29    On or about July 27, 2015, Mr. Tindall's attorney requested that his OPS  
9 interview be postponed until August 17, 2015 due to a scheduling conflict the attorney had. OPS  
10 agreed to the request and rescheduled the interview to August 17, 2015.

11        3.30    On August 7, 2015, Mr. Tindall submitted retirement paperwork to WSP.

12        3.31    On or about August 14, 2015, two days before his interview and prior to the  
13 conclusion of OPS's investigation, Mr. Tindall retired from employment with WSP.

14        3.32    Given the totality of the circumstances, had Mr. Tindall not retired from WSP  
15 and had the OPS investigation been carried forward, it would more likely than not have led to  
16 Mr. Tindall's discharge from employment for misconduct. This misconduct includes, in relevant  
17 part, Mr. Tindall's dishonesty to the Police Department during his interview on April 16, 2015.

18        3.33    On or about June 15, 2016, Mr. Tindall entered a plea of guilty to Rendering  
19 Criminal Assistance in the Second Degree, RCW 9A.76.080. In his plea of guilty to the court,  
20 Mr. Tindall admitted the following:

21        Between 3/27/15 to 4/15/15, I, Dan Tindall, with intent, helped my son,  
22 Wyatt Tindall, avoid or delay apprehension knowing he was being sought by the  
23 police for a criminal felony offense (class B or C) in Thurston County Washington.

23        3.34    Mr. Tindall's testimony before the Hearing Panel was not credible.

24        3.35    Any Conclusion of Law deemed to be properly considered a Finding of Fact is  
25 hereby adopted as such.

26        Based on the foregoing Findings of Fact, the Hearing Panel makes the following:

#### IV. CONCLUSIONS OF LAW

4.1 Revocation of Respondent Daniel Tindall's peace officer certification is governed by RCW 43.101 and WAC 139-06.

4.2 The Washington State Criminal Justice Training Commission and this Hearing Panel have jurisdiction over the Respondent and these proceedings. RCW 43.101.085; RCW 43.101.105; RCW 43.101.380.

4.3 RCW 43.101.105(1)(d) provides that the Commission may revoke a peace officer's certification when "[t]he peace officer has been discharged for disqualifying misconduct, the discharge is final, and some or all of the acts or omissions forming the basis of the discharge proceedings occurred on or after January 1, 2002."

4.4 The Petitioner bears the burden of proving "discharge for disqualifying misconduct" by "clear, cogent, and convincing evidence." RCW 43.101.010(8); RCW 43.101.380(1).

4.5 A peace officer is "discharged for disqualifying misconduct" within the meaning of RCW 43.101.010(8) "under the ordinary meaning of the term and when the totality of the circumstances support a finding that the officer resigned in anticipation of discipline, whether or not the misconduct was discovered at the time of resignation, and when such discipline, if carried forward, would more likely than not have led to discharge for disqualifying misconduct within the meaning of subsection (8) of this section." RCW 43.101.010(9).

4.6 RCW 43.101.010(8)(b) defines a discharge for "disqualifying misconduct" to include discharge resulting from conduct constituting any of the crimes addressed in RCW 43.101.010(8)(a).

4.7 One of the crimes enumerated in RCW 43.101.010(8)(a) is "any crime involving dishonesty or false statement within the meaning of Evidence Rule 609(a)."

4.8 Making a false or misleading statement to a public servant is conduct constituting a "crime of dishonesty" within the meaning of Evidence Rule 609(a).



1       4.9    A person who knowingly makes a false or misleading material statement to a  
2 public servant is guilty of a gross misdemeanor. RCW 9A.76.175.

3       4.10   "Material statement" means "a written or oral statement reasonably likely to be  
4 relied upon by a public servant in the discharge of his or her official duties." RCW 9A.76.175.

5       4.11   "Public servant" includes any employee of government. RCW 9A.04.110(2).

6       4.12   Police officers are public servants. *State v. Graham*, 130 Wash.2d 711927 P.2d  
7 227 (1996).

8       4.13   A majority of the Panel concludes by clear, cogent, and convincing evidence that  
9 the Respondent was discharged for disqualifying misconduct within the meaning of RCW  
10 43.101.010(9).

11       4.14   The Panel concludes by clear, cogent, and convincing evidence that Respondent's  
12 discharge is final as that term is defined in RCW 43.101.010(10).

13       4.16   The Panel concludes by clear, cogent, and convincing evidence that Mr. Tindall  
14 knowingly made false or misleading statements to public servants Sean Lindros and Sam  
15 Costello of the Olympia Police Department on April 16, 2015. Mr. Tindall's false or misleading  
16 statements were in response to questions about his knowledge of his son's involvement in a crime  
17 occurring at the Owens residence and depicted in a video that Mr. Tindall had viewed. The false  
18 or misleading statements made by Mr. Tindall include: (1) his denial that he recognized his son  
19 in the video, (2) his claim that, when he confronted his son about the crime, his son denied it,  
20 and (3) his denial that he recognized any of the articles of clothing worn by his son in the video,  
21 including the jacket and the mask. If not patently false, the statements were at least misleading  
22 because they implied that Mr. Tindall did not know his son was the person depicted in the video  
23 and Mr. Tindall knew the detectives were trying to ascertain the identify of the person depicted  
24 in the video.

25       4.17   The Panel concludes by clear, cogent, and convincing evidence that Mr. Tindall  
26 knew his statements to Olympia Police on April 16, 2015 were false or misleading at the time he



1 made them. The Panel bases this conclusion on the totality of the evidence, including Exhibits  
2 7, 8, 9, 15, and 31.

3 4.18 The Panel is cognizant that it may not base a necessary finding or conclusion—  
4 such as whether or not Mr. Tindall's statements to police were knowingly false or misleading—  
5 exclusively on hearsay. RCW 34.05.461(4). The Panel relies in large part on Exhibit 9 to find  
6 and conclude that Mr. Tindall's statements to Olympia Police were knowingly false or  
7 misleading, but in making this finding and conclusion the Panel also considered and relied upon  
8 the totality of the evidence, including Exhibits 7, 8, 15, and 31.

9 4.19 The Panel concludes by clear, cogent, and convincing evidence that Mr. Tindall's  
10 statements to Olympia Police on April 16, 2015 were material.

11 4.20 The Panel concludes by clear, cogent, and convincing evidence that all of the acts  
12 forming the basis of the discharge for disqualifying misconduct occurred after January 1, 2002.

13 4.21 A majority of the Panel concludes by clear, cogent, and convincing evidence that  
14 the totality of the circumstances support the finding that Mr. Tindall resigned from WSP in  
15 anticipation of discipline that more likely than not would have led to termination of employment  
16 for disqualifying misconduct.

17 4.22 The Panel concludes by clear, cogent, and convincing evidence that Mr. Tindall's  
18 discharge from WSP is final.

19 4.23 Based upon the foregoing findings and conclusions, the Panel unanimously  
20 concludes that the discharge for disqualifying misconduct found by a majority of the Panel  
21 warrants revocation of Daniel Tindall's peace officer certification.

22 4.24 Any conclusion of law deemed to be properly considered a finding of fact is  
23 hereby adopted as such.

24 ////

25 ////

26 ////

V. ORDER

5.1 Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel now therefore issues the following ORDER:

That Respondent's peace officer certification is hereby REVOKED.

DATED this 26th day of October, 2018.



---

Professor Tadd Belden  
Centralia College  
Presiding Panel Member

## NOTICE TO THE PARTIES

**RECONSIDERATION:** Pursuant to RCW 34.05.470, you have ten (10) days from the mailing of this Order to file a petition for reconsideration stating the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that: (a) there is a material clerical error in the Order, or (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by mailing or delivering directly to the Washington State Criminal Justice Training Commission, 19010 1st Avenue South, Burien, Washington 98148, with a copy to all other parties of record and their representatives. Filing means actual receipt at the Commission's office. RCW 34.05.010(6).

A timely petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition for reconsideration is filed, the Commission does not: (a) dispose of the petition, or (b) serve the parties with a written notice specifying the date by which it will act on the petition. An order denying reconsideration is not a prerequisite for filing a petition for judicial review.

**STAY OF EFFECTIVENESS:** The filing of a petition for reconsideration does not stay the effectiveness of this Order. The Commission has determined not to consider a petition to stay the effectiveness of this Order. Any such request should be made in connection with a petition for judicial review under chapter 34.05 RCW.

**JUDICIAL REVIEW:** Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement (RCW 34.05.510 through .598). The petition for judicial review of this Order shall be filed with the appropriate court and served on the Commission, the Office of the Attorney General, and all parties within thirty (30) days after service of this Order, as provided in RCW 34.05.542.

**PETITION FOR REINSTATEMENT:** A peace officer whose certification is revoked for discharge for disqualifying misconduct may petition for reinstatement of certification or eligibility for certification after five (5) years have elapsed from entry of the order of revocation. RCW 43.101.115(4).

**SERVICE:** This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).